

CHAPTER 5. CONDUCT OF PRETRIAL CONFERENCE

5.1 The Pretrial Conference

A Pretrial Conference may be held in any long cause on the civil active list, whether jury or nonjury, if requested by all the parties or ordered by the court, either on its own motion or the noticed motion of a party. The pretrial conference shall be attended by counsel who actually will try the case and by all unrepresented parties.

Eff. Jan. 1, 1999.

5.2 Pretrial Statements

- a. As directed by the order setting the action for pretrial conference, counsel shall file either a Joint Pretrial Statement or separate Pretrial Statements not less than seven (7) days before the date of the pretrial conference.

Pretrial statements shall be limited to ten (10) pages.

- b. Not less than fifteen (15) days before the date of the pretrial conference, counsel and all unrepresented parties shall meet and confer in good faith in order to prepare the pretrial statement or statements, to narrow down the legal and factual issues which the court will have to try, to arrive at stipulations and to attempt settlement of the action.

Eff. Jan. 1, 1999.

5.3 Form and Contents of Pretrial Statement

The pretrial statement shall state the name of the party or parties on whose behalf it is presented and set forth the nature of the action and the following matters under the following captions and in the following order:

- a. **Jurisdiction and Venue.** A statement as to whether any party disputes jurisdiction or venue and, if so, the legal and factual issues presented.
- b. **Substance of the Action.** A brief description of the substance of the claims and defenses presented and of the issues to be decided. In jury cases, this description shall be couched in impartial and non-argumentative language so that it will be suitable for reading to the jury at the outset of the trial.
- c. **Undisputed Facts.** A plain, concise statement of the facts that are undisputed. Counsel shall make a good faith effort to stipulate to all facts

not reasonably disputable for incorporation into the trial record without the necessity of supporting testimony and exhibits.

- d. Disputed Factual Issues.** A plain, concise statement of all disputed factual issues.
- e. Disputed Evidentiary Issues.** A plain, concise summary of any reasonably anticipated disputes concerning admissibility of evidence.
- f. Relief Sought.** A detailed statement of the relief claimed, including a particularized itemization of any monetary damage sought.
- g. Points of Law.** A statement of the legal theory or theories of recovery or of defense and of any points of law (substantive or procedural) that are or may reasonably be expected to be in controversy, citing the pertinent statutes, ordinances, regulations, cases and other authorities relief upon. Extended legal argument shall not be included in the pretrial statement.
- h. Abandoned Issues.** A statement of all issues raised by the pleadings that have been abandoned including, for example, causes of action and affirmative defenses.
- i. Previous Motions.** A list of all previous motions made in the action or proceeding and the disposition of each.
- j. Witnesses.** A list of all witnesses likely to be called at trial, whether offered in person or by deposition, except for impeachment or rebuttal, together with a brief statement following each name, describing the substance of the testimony to be given.
- k. Exhibits, Schedules and Summaries.** A list of all documents and other items to be offered as exhibits at the trial, except for impeachment or rebuttal, with a brief statement following each describing its substance and purpose and the identity of the sponsoring witness. Only exhibits so listed will be permitted to be offered at trial except as may be otherwise provided in the pretrial order.
- l. Discovery Documents.** A list of all answers to interrogatories and responses to requests for admission that the party expects to offer at trial.
- m. Further Discovery or Motions.** Any requests for further discovery or pretrial motions.
- n. Stipulations.** Any stipulations requested or offered for pretrial or trial purposes.

- o. Amendments and Dismissals.** Any requested amendments to pleadings, dismissals, additions or substitutions of parties, or dispositions as to defaulting parties.
- p. Settlement Discussion.** A statement summarizing the status of settlement negotiations and indicating whether further negotiations or settlement conferences are likely to be productive.
- q. Agreed Statement.** A statement whether presentation of the action or proceeding in whole or in part upon agreed statement of facts is feasible and desired.
- r. Bifurcation, Separate Trial of Issues.** A statement whether bifurcation or a separate trial of specific issues is feasible and desired.
- s. Appointment and Limitation of Experts.** A statement whether appointment by the court of an impartial expert witness and whether limitation of the number of expert witnesses is feasible and desired.
- t. Estimate of Trial Time.** An estimate of the number of court days expected to be required for the presentation of each party's case. Counsel are expected to make a good faith effort to reduce the time required for trial by all means reasonably feasible, including stipulation, agreed statement of facts, expedited means of presenting testimony and exhibits and the avoidance of cumulative proof.
- u. Attorney's Fees.** A statement whether attorney's fees are sought, the legal and factual bases therefor and the time and manner in which they are to be ascertained.
- v. Miscellaneous.** Any other appropriate comments, suggestions or information that might aid in the efficient or economical determination of the action.

Eff. Jan. 1, 1999.

5.4 Pretrial Order

The court may make such pretrial orders at or following the pretrial conference as may be appropriate and such orders shall control the subsequent course of the action. Unless otherwise ordered the parties in all cases which are not subject to Chapter 9, Family Law Rules, shall, not less than seven (7) calendar days before the pretrial conference do each of the following:

- a.** Serve and file all motions in limine, briefs on all significant disputed issues of law, including foreseeable procedural and evidentiary issues setting forth briefly the parties position and the supporting arguments and authorities, Each motion or brief shall not exceed ten (10) pages.
- b.** In jury cases, serve on counsel and lodge with the court all proposed voir dire questions. No question shall be allowed by counsel without the permission of the trial judge. It is the policy of the court to afford counsel a reasonable opportunity to question prospective jurors consistent with the circumstances of the particular case. Jury instructions and forms of verdict shall also be served and lodged; and in court trial cases, a proposed statement of decision shall be served and lodged.
- c.** Serve and file statements designating excerpts from depositions (specifying the witnesses and page and line references), from interrogatory answers and from responses to requests for admission to be offered at the trial (other than for impeachment or rebuttal).
- d.** Exchange copies of all exhibits to be offered and all schedules, summaries, diagrams and charts to be used at the trial (other than for impeachment or rebuttal). Upon request the party shall make the original or underlying documents of any exhibit available for inspection and copying.
- e.** Unless otherwise ordered the parties shall, not less than three (3) calendar days before the pretrial, serve and file all responses to motions in limine and responses or opposition, if any, to items received pursuant to paragraphs a, b, c, and d above; any such response or opposition shall not exceed five (5) pages.

Eff. Jan. 1, 1999.

5.5 Objections to Proposed Testimony and Exhibits

Promptly after receipt of the statements and exhibits and prior to commencement of the trial, any party proposing to object to the receipt in evidence of any proposed testimony or exhibit shall advise the opposing party of such objection. The party shall confer with respect to any objections in advance of trial and attempt to resolve them. To the extent they are unable to arrive at a resolution, they shall advise the court of such objections and make reasonable efforts to present the matter to the court for a ruling in advance of trial.

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